

STATE OF TENNESSEE **DEPARTMENT OF ENVIRONMENT AND CONSERVATION DIVISION OF WATER RESOURCES**

William R. Snodgrass - Tennessee Tower 312 Rosa L. Parks Avenue, 11th Floor Nashville, Tennessee 37243-1102

September 25, 2019

608 Hotels LLC Nimish Patel 4555 Mansell Road, Suite 300 Alpharetta, GA 30022

Re: NRS 16.124- Hotel Development McGavock Pike- PERMIT MODIFICATION

Nashville, Davidson County, TN

Dear Mr. Patel:

I have reviewed your modification request for Aquatic Resource Alteration Permit NRS16.124, to construct a commercial hotel. In this proposal, the building plans have been altered to avoid wetland impact and two stream crossings will be installed. Approximately 56 linear feet of Sims Branch will be encapsulated with two, 28-foot long, open-box culverts for the construction of road crossings. Additionally, two utilities-sanitary sewer and a water line- will be installed via jack-and-bore techniques. Gas and communication utilities will be installed in conduit across the bridge. Cumulatively, impacts are considered de minimis. Pursuant to §401 of the Federal Clean Water Act (33 U.S.C. 1341), the State of Tennessee is required to certify whether the activity described below will violate applicable water quality standards.

The Division has reasonable assurance that the activity as proposed in accordance with all permit conditions herein will not violate applicable water quality standards. Subject to conformance with accepted plans, specifications and other information submitted in support of the referenced application, the state of Tennessee hereby issues certification for the proposed activity (enclosed). Failure to comply with the terms of this permit or other violations of the Tennessee Water Control Act of 1977 is subject to penalty in accordance with T.C.A. § 69-3-115.

The state of Tennessee may modify, suspend or revoke this authorization or seek modification or revocation should the state determine that the activity results in more than an insignificant violation of applicable water quality standards or violation of the TWQCA. Failure to comply with permit terms may result in penalty in accordance with T.C.A. §69-3-115.

The issuance of this permit modification supersedes and nullifies the previously issued NRS16.124 permit, issued March 3, 2017.

It is the responsibility of the permittee and that all contractors involved with this project to read and understand all permit conditions before the project begins. If you need any additional information for clarification, please contact me at 423-634-2482 or by email at Meghan.Ploch@tn.gov.

Sincerely,

Meghan Ploch
Meghan Ploch

Environmental Scientist, Natural Resources Unit

Cc: Tim Jennette, Nashville Field Office Manager, Tim.Jennette@tn.gov

U.S. Army Corps of Engineers, Nashville District, NashvilleRegulatory@usace.army.mil

Michael Hunt, Nashville MS4 Program Manager, michael.hunt@nashville.gov

Gary Best, Best & Associates Architects, zbestarch@aol.com

File Copy



Aquatic Resource Alteration Permit - NRS16.124 MODIFICATION

Pursuant to §401 of *The Federal Clean Water Act* (33 U.S.C. 1341), any applicant for a Federal license or permit to conduct any activity which may result in any discharge into the waters of the U.S., shall provide the federal licensing or permitting agency a certification from the State in which the discharge originates or will originate. Accordingly, the Division of Water Resources requires reasonable assurance that the activity will not violate provisions of *The Tennessee Water Quality Control Act of 1977* (T.C.A. §69-3-101 et seq.) or provisions of §301, 302, 303, 306 or 307 of *The Clean Water Act*.

Subject to conformance with accepted plans, specifications and other information submitted in support of the application, pursuant to 33 U.S.C. 1341 the State of Tennessee hereby certifies the activity described below. This shall serve as authorization under T.C.A. §69-3-101 et seq.

PERMITTEE 608 Hotels, LLC

Nimish Patel

4555 Mansell Road, Suite 300

Alpharetta, GA 30022

AUTHORIZED WORK: The applicant is authorized to impact approximately 56 linear feet of Sims Branch for the

construction of two road crossings to provide access to a commercial hotel. Wetlands will be avoided during the construction of the hotel and will not be permanently impacted. Approximately 56 linear feet of Sims Branch will be encapsulated with two, 28-foot long, open-box culverts for the construction of road crossings. Additionally, two utilitiessanitary sewer and a water line - will be installed via jack-and-bore techniques. Gas and communication utilities will be installed in conduit across the bridge. Cumulatively,

impacts are considered de minimis.

LOCATION: 608 McGavock Pike

Davidson County, Nashville, TN

Latitude: 36.156087 Longitude: -86.681821

EFFECTIVE DATE: March 3, 2017

MODIFICATION DATE: September 25, 2019

EXPIRATION DATE: March 2, 2022

__FOR :__

Jennifer Dodd Director, Division of Water Resources

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PART I

Authorized Work

Two open-bottom box culverts will be installed over Sims Branch, impacting approximately 28 linear feet each.

Impact 1: Latitude: 36.1562 Longitude: -86.6811

Encapsulation of Sims Branch for approximately 28 linear feet with the installation of an open bottom box culvert. The crossing of the stream will involve the placing of a footing structure at a point behind the top of bank on each side of the stream with a precast concrete slabs placed over the footing. The decking, footings and bridge components will not directly disturb the stream channel bed or walls during and after installation.

Impact 2: Latitude: 36.1567 Longitude: -86.6813

Encapsulation of Sims Branch for approximately 28 linear feet with the installation of an open bottom box culvert. The crossing of the stream will involve the placing of a footing structure at a point behind the top of bank on each side of the stream with a precast concrete slabs placed over the footing. The decking, footings and bridge components will not directly disturb the stream channel bed or walls during and after installation.

Impact 3: Latitude: 36.15606 Longitude: - 86.68134

Installation of a water and sanitary sewer line utilizing jack and bore techniques. The utilities will be installed with a minimum of 36-inch clearance between the stream bed elevation and top of the casing pipe. Bore holes will be a minimum of 10 feet from the top of bank. A gas and communications utility line will be installed in conduit across the bridge.

Special Conditions

- All activities must be accomplished in conformance with the approved plans, specifications, data and other
 information submitted in support of the application NRS16.124 and the limitations, requirements and
 conditions set forth herein. Failure to comply with the terms and conditions of this permit is a violation of
 the Tennessee Water Quality Control Act of 1977, and is subject to penalty in accordance with T.C.A. §693-115.
- 2. It is the responsibility of the applicant to convey all terms and conditions of this permit to all contractors. A copy of this permit, approved plans and any other documentation pertinent to the activities authorized by this permit shall be maintained on site at all times during periods of construction activity.
- 3. The authorized impacts shall not cause measureable degradation to resource values and classified uses of hydrologically connected wetlands or other waters of the state, including disruption of sustaining surface or groundwater hydrology without obtaining permit coverage.
- 4. Wetlands shall be clearly marked with visibility fencing or similar material to prevent disturbance or alteration during construction activities. Disturbance to wetlands is not permitted.
- 5. No blasting is permitted in the excavation of trenches or bore holes that parallel or lie within 50 feet of a stream or wetland, including all stream crossings.
- 6. The alignment of utility line crossing shall intersect the stream channel as close to 90 degrees or as perpendicular as possible. Alignment shall be no less than a 45 degree angle from the centerline of the stream.
- 7. Utility line crossings shall be located such as to avoid permanent alteration or damage to the integrity of the stream channel.
- 8. The crossing shall be designed to prevent the impoundment or loss of normal or base flows. In bedrock streambeds, special provisions shall be made to prevent the loss of stream flow due to fracturing of bedrock. Any loss of flow may result in corrective action or compensatory mitigation.

- 9. All spoil material from trench excavation, bore pits and other earth disturbing activities shall be deposited in an upland location and stabilized within 7 days in order to prevent erosion into waters of the state.
- 10. Road crossing shall not significantly alter the hydraulics of the stream.
- 11. The crossing shall be implemented as designed and prevent the impoundment of normal or base flows on the upstream side, and not result in a disruption or barrier to the movement of fish or aquatic life on the downstream side.
- 12. The width of the fill and bank modifications, or other impacts associated with the crossing shall be limited to the minimum necessary for the actual crossing. The stream channel shall remain undisturbed.
- 13. This does not authorize the removal of riparian trees or shrubs. Authorization may need to be obtained through the local jurisdiction before riparian zones are modified in any way.
- 14. Bankfill activities must be accomplished in a manner that stabilizes the streambed and banks to prevent erosion. All contours must be returned to pre-project conditions to the extent practicable and the completed activities may not disrupt or impound stream flow.
- 15. Construction and removal of bridges and culverts shall be in the dry to the maximum extent practicable, by diverting flow utilizing cofferdams, berms, and/or temporary channels or pipes. Temporary diversion channels shall be protected by non-erodible material and liens to the expected high water level. Cofferdams and/or berms shall be constructed of sandbags, clean rock (containing no fines or soils), steel sheeting, or other non-erodible, non-toxic material. All such diversion materials shall be removed upon completion of the work.
- 16. Erosion and sediment control measures shall be in place and functional before earth moving operations begin, and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but shall be replaced at the end of the work day.
- 17. Checkdams shall be utilized where runoff is concentrated. Clean rock, log, or sandbag checkdams shall be properly constructed to detain runoff and trap sediment. Checkdams or other erosion control devices are not to be constructed in jurisdictional streams. Clean rock can be of various type and size, depending on the application. Clean rock shall not contain fines, soils or other wastes or contaminants.
- 18. EPSC measures shall be utilized where stream banks are disturbed.
- 19. The permittee shall notify this office upon start of construction, and of project completion within thirty (30) days of completion.

General Conditions

- 1. This permit shall not be used incrementally to combine with other activities resulting in a net loss of water resource values within the same Common Plan of Development.
- 2. This activity may not result in a disruption or barrier to the movement of fish or other aquatic life and wetland dependent species.
- 3. Any proposed in stream or wetland equipment shall be free of noticeable leaks of fluids and oils; e.g., hydraulic, transmission, crankcase, and engine coolant, fluids, and oils.
- 4. Sediment shall be prevented from entering other waters of the state. The activity may not result in the discharge of waste or other substances that may be harmful to humans or wildlife.
- 5. Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state. All spills shall be reported to the appropriate emergency management agency and to the division. In the event of a spill, measures shall be taken immediately to prevent pollution of waters of the state, including groundwater.

- 6. Best Management Practices shall be stringently implemented throughout the construction period to prevent sediments, oils, or other project-related pollutants from being discharged into waters of the state. All spills must be reported to the appropriate emergency management agency, and measure shall be taken immediately to prevent the pollution of waters of the state, including groundwater, should a spill occur.
- 7. The use of monofilament-type erosion control netting or blanket is prohibited. Placement of liners, matting, riprap, other hard armoring materials, or monofilament-type erosion control netting or blanket in the mitigation wetland is prohibited.
 - 8. Activities occurring in known or likely habitat of state or federally listed threatened, endangered, deemed in need of management, or species of special concern may not be authorized without prior coordination with the Tennessee Wildlife Resources Agency (TWRA) and TDEC Division of Natural Areas (DNA) to determine if any special conditions are required to avoid and/or minimize harm to the listed species or their habitat. Adverse effects to federally listed threatened and endangered species or their critical habitat is not permitted without prior authorization from the United States Fish and Wildlife Service (USFWS) as required by Section 7 or Section 10 under the Endangered Species Act.
 - 9. Clearing, grubbing, and other disturbance to riparian vegetation shall be kept at the minimum necessary for slope construction and equipment operations. Unnecessary riparian vegetation removal, including trees, is prohibited. Native riparian vegetation must be reestablished after work is completed. Non-native, non-invasive annuals may be used as cover crops until native species are established. Coverage under this permit does not serve to waive any local riparian buffer protection requirement, and permittees are responsible for obtaining any necessary local approval.
 - 10. Work shall not commence until the permittee has obtained all necessary authorizations pursuant to applicable provisions of §10 of The Rivers and Harbors Act of 1899; §404 of The Clean Water Act; §26a of The Tennessee Valley Authority Act and Tennessee NPDES Storm Water Construction Permit, as well as any other federal, state or local laws.
 - 11. Streambeds shall not be used as linear transportation routes for construction equipment. Temporary stream crossings shall be limited to one point in the construction area and erosion prevention and sediment control measures shall be utilized where stream banks are disturbed.
 - 12. This permit does not authorize impacts to cultural, historic or archaeological features or sites.
 - 13. All activities must be carried out in such a manner as will prevent violations of water quality criteria as stated in TDEC Rule 0400-40-03. This includes, but is not limited to, the prevention of any discharge or use of materials that may be harmful to humans, terrestrial or aquatic life, or causes a condition in which visible solids, bottom deposits or turbidity impairs the designated uses of waters of the state. These uses include fish and aquatic life (including trout streams and naturally reproducing trout streams), livestock watering and wildlife, recreation, irrigation, industrial water supply, domestic water supply, navigation.
 - 14. This permit does not authorize access to private property. Arrangements concerning the use of private property shall be made with the landowner.
 - 15. Impacts to waters of the state other than those specifically address in the plans and this permit are prohibited. All streams, springs and wetlands shall be fully protected prior, during and after construction until the area is stabilized. Any questions, problems or concerns that arise regarding any stream, spring or wetland either before or during construction, shall be addressed to the Division of Water Resource's Nashville Environmental Field Office (615-532-7000), or the permit coordinator in the division's Natural Resources Unit (615-532-0359).
 - 16. Erosion prevention and sediment control measures must be in place and functional before any land disturbance activities begin, and shall be designed in accordance with the department's *Erosion and Sediment Control Handbook* (www.tn.gov/environment/wpc/sed_ero_controlhandbook/). Permanent vegetative stabilization of all disturbed areas in or near waters of the state must be initiated within 14 days of project completion, and utilize

- native species (also see *Landscaping with Natives* at tneppc.org). Non-native, non-invasive annuals may be used as cover crops until native species can be established.
- 17. Temporary or permanent soil stabilization shall be accomplished within 15 days after final grading or other earth work. Permanent stabilization with perennial vegetation or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable.
- 18. The permittee is responsible for obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) *General Permit for Storm Water Discharges from Construction Activities* where clearing, grading or excavation results in an area of disturbance of one or more acres, or activities that result in the disturbance of less than one acre if it is part of a larger common plan of development or sale.

PART II- MODIFICATION

Mitigation Requirements and Monitoring Procedures

The wetland is being avoided in its entirety; cumulative impacts to streams are de minimis. No mitigation is required.

Duty to Reapply

A. If any portion of the permitted activities is not completed before the expiration date of this permit the applicant must apply for permit re-issuance. The permittee shall submit such information and forms as are required to the director of the Division of Water Resources at least ninety (90) days prior to its expiration date. Such applications must be properly signed and certified.

Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

Other Information

If the permittee becomes aware that he/she failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, then he/she shall promptly submit such facts or information.

Changes Affecting the Permit

Transfer/Change of Ownership

- a. This permit may be transferred to another party, provided there are no activity or project modifications, no pending enforcement actions, or any other changes which might affect the permit conditions contained in the permit, by the permittee if:
- b. The permittee notifies the Director of the proposed transfer at least 30 days in advance of the proposed transfer date:
- c. The notice includes a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage, and contractual liability between them; and
- d. The Director does not notify the current permittee and the new permittee, within 30 days, of her intent to modify, revoke, reissue, or terminate the permit, or require that a new application be filed rather than agreeing to the transfer of the permit.

- e. The permittee must provide the following information to the division in their formal notice of intent to transfer ownership:
 - 1. the permit number of the subject permit;
 - 2. the effective date of the proposed transfer;
 - 3. the name and address of the transferor;
 - 4. the name and address of the transferee;
 - 5. the names of the responsible parties for both the transferor and transferee;
 - 6. a statement that the transferee assumes responsibility for the subject permit;
 - 7. a statement that the transferor relinquishes responsibility for the subject permit;
 - 8. the signatures of the responsible parties for both the transferor and transferee, and;
 - A statement regarding any proposed modifications to the permitted activities or project, its
 operations, or any other changes which might affect the permit conditions contained in the
 permit.

Change of Mailing Address

The permittee shall promptly provide to the Director written notice of any change of mailing address. In the absence of such notice the original address of the permittee will be assumed to be correct.

Noncompliance

Effect of Noncompliance

All discharges shall be consistent with the terms and conditions of this permit. Any permit noncompliance constitutes a violation of applicable State and Federal laws and is grounds for enforcement action permit termination, permit modification, or denial of permit reissuance.

Reporting of Noncompliance

24-Hour Reporting

- a. In the case of any noncompliance which could cause a threat to public drinking supplies, or any other discharge which could constitute a threat to human health or the environment, the required notice of noncompliance shall be provided to the Division of Water Resources in the appropriate Environmental Field Office within 24-hours from the time the permittee becomes aware of the circumstances. (The Environmental Field Office should be contacted for names and phone numbers of environmental response personnel).
- b. A written submission must be provided within five (5) days of the time the permittee becomes aware of the circumstances unless this requirement is waived by the Director on a case-by-case basis. The permittee shall provide the Director with the following information:
- 1. A description of the discharge and cause of noncompliance;
- 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- 3. The steps being taken to reduce, eliminate, and prevent recurrence of the non-complying discharge.

Scheduled Reporting

For instances of noncompliance which are not reported under subparagraph a. above, the permittee shall report the noncompliance by contacting the permit coordinator, and provide all information concerning the steps taken or planned to reduce, eliminate, and prevent recurrence of the violation and the anticipated time the violation is expected to continue.

Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with this permit, including but not limited to, accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

Liabilities

Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Notwithstanding this permit, the permittee shall remain liable for any damages sustained by the State of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge of pollutants to any surface or subsurface waters. Additionally, notwithstanding this Permit, it shall be the responsibility of the permittee to conduct its discharge activities in a manner such that public or private nuisances or health hazards will not be created.

Liability under State Law

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or the Federal Water Pollution Control Act, as amended.

This permit does not preclude requirements of other federal, state or local laws. This permit also serves as a State of Tennessee Aquatic Resource Alteration Permit (ARAP) pursuant to the Tennessee Water Quality Control Act of 1977 (T.C.A. §69-3-101 et seq.).

This permit may be revoked, suspended, or modified for cause, including:

- 1. Violation of any of the terms or conditions of this permit or of T.C.A § 69-3-101 et. seq.;
- 2. Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts;

A change in any condition that requires either a temporary or permanent change in the conditions of this permit

An appeal of this action may be made as provided in T.C.A. §69-3-105(i) and Rule 0400-40-05-.12 by submitting a petition for appeal. This petition must be filed within THIRTY (30) DAYS after public notice of the issuance of the permit. The petition must specify what provisions are being appealed and the basis for the appeal. It should be addressed to the technical secretary of the Tennessee Board of Water Quality, Oil and Gas at the following address: Ms. Jennifer Dodd, Director, Division of Water Resources, William R. Snodgrass – 11th floor Tennessee Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee 37243-1102. Any hearing would be in accordance with T.C.A. §69-3-110 and 4-5-301 et seq.

APPENDIX A:

Location

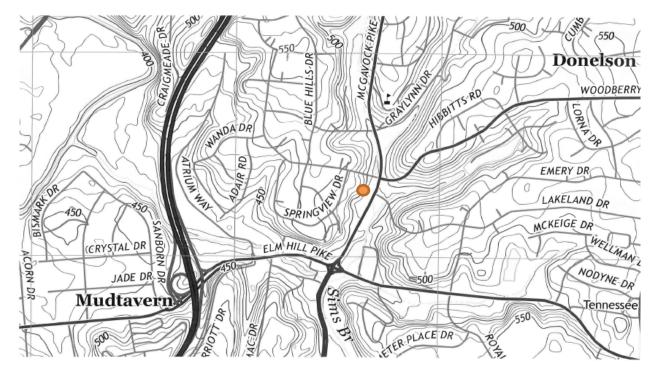


Figure 1. Topographic Map of the Project Area

Impacts

